

105TH CONGRESS
1ST SESSION

H. R. 2740

To limit attorneys' fees in the tobacco settlement.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1997

Mr. MCINNIS (for himself, Mr. COX of California, and Mr. MCHALE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To limit attorneys' fees in the tobacco settlement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) Under the proposed settlement between the
6 tobacco industry and the various State Attorneys
7 General, the attorneys involved in negotiating the
8 settlement are entitled to reasonable fees.

9 (2) Under the proposed settlement, the tobacco
10 companies would pay \$368,500,000,000 to be allo-
11 cated among various public health programs.

1 (3) It is expected that of the total tobacco set-
2 tlement of \$368,500,000,000 as much as
3 \$111,000,000,000 could be taken away from public
4 health programs for attorneys' "contingency fees".

5 (4) Since no national settlement can take effect
6 without Congressional action to change existing law,
7 the approval of Congress is necessary for the terms
8 of the settlement, including the part relating to at-
9 torneys' fees, to take effect.

10 (5) While the average annual gross receipts for
11 the 100 top-grossing law firms in America last year
12 was \$18,000,000, a 30 percent contingency fee
13 would yield an average of approximately
14 \$925,000,000 per law firm involved in the litigation
15 pending prior to the settlement.

16 (6) A casual decision at a young age to use to-
17 bacco products often leads to addiction, serious dis-
18 ease, and premature death as an adult. Nearly 90
19 percent of adult smokers began smoking at or before
20 the age of 18. Smoking rates among youngsters are
21 at their highest levels in 16 years. Every day an-
22 other 3,000 children and adolescents become regular
23 smokers. Therefore, the epidemic of youth addiction
24 has enormous public health consequences.

1 (7) While attorneys are entitled to be paid for
2 their time and effort, the maximum possible amount
3 of moneys from any tobacco settlement should go di-
4 rectly to benefit public health, with the highest pri-
5 ority being given to efforts focused on persuading
6 children not to smoke rather than to awards leading
7 to unreasonable attorneys' fees.

8 **SEC. 2. LIMIT ON DIVERSION OF PUBLIC HEALTH FUNDS**
9 **TO ATTORNEYS.**

10 (a) **GENERAL LIMITATION.**—Notwithstanding any
11 other provision of law, any attorneys' fees paid in connec-
12 tion with the settlement of an action maintained by a
13 State against 1 or more tobacco companies to recover to-
14 bacco-related medicaid expenditures or for other causes of
15 action involved in the settlement agreement dated June
16 20, 1997, shall not exceed \$150 per hour, together with
17 reimbursement of actual out-of-pocket expenses as ap-
18 proved by the court in such action.

19 (b) **FEE ARRANGEMENTS.**—Subsection (a) shall
20 apply to attorneys' fees provided for or in connection with
21 an action of the type described in such subsection under
22 any—

- 23 (1) court order;
24 (2) settlement agreement;
25 (3) contingency fee arrangement;

1 (4) arbitration procedure;

2 (5) alternative dispute resolution procedure (in-
3 cluding mediation); or

4 (6) other arrangement providing for the pay-
5 ment of attorneys' fees.

6 (c) REQUIREMENTS.—No award of attorneys' fees
7 shall be made under any national tobacco settlement until
8 the attorneys involved have—

9 (1) provided to the Congress a detailed time ac-
10 counting with respect to the work performed in rela-
11 tion to any legal action which is the subject of the
12 settlement or with regard to the settlement itself;
13 and

14 (2) made public disclosure of the time account-
15 ing under paragraph (1) and any fee arrangements
16 entered into, or fee arrangements made, with respect
17 to any legal action that is the subject of the settle-
18 ment.

19 (d) EFFECTIVE DATE.—The limitation on the pay-
20 ment of attorneys' fees contained in this section shall be-
21 come effective on the date of enactment of any Act enacted
22 in connection with the national tobacco settlement.

23 (e) REPORT.—Each attorney whose fees are subject
24 to this section shall, within 30 days of the date of the
25 enactment of this Act, submit to Committees on the Judi-

1 ciary of the House of Representatives and the Senate a
2 comprehensive record of the time and expenses for which
3 the fees are to be paid. Such record shall be subject to
4 section 1001(a) of title 18, United States Code.

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